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THE EUROPEAN CONVENTION ON HUMAN RIGHTS: PROTECTION OF INDIVIDUAL RIGHTS IN THE AGE OF GLOBALISATION

Abstract

The European Convention on Human Rights is considered as the premier document, which gives the highest degree of protection to individual rights. Since 1953, the Convention has been playing an important role in promoting the ideas of individual human rights. By contrast, the developments of globalisation are posing a number of challenges in realising individual rights. However, development of the concept of individual human rights in Europe has gone through a long process of evolution. Therefore, the objectives of this paper are to evaluate the evolution of individual rights in Europe, and to examine how far the European Convention on Human Rights is addressing the emerging realities of globalisation.

1. Introduction

The European Convention on Human Rights is an arrangement formed by the Council of Europe in 1953 to protect individual rights for the European democracies committed to the rule of law.¹ The Council of Europe was formed as a process of restructuring the Western Europe in the aftermath of the Second World War. The Council put particular emphasis on legal standards, human rights, democratic developments, rule of law and cultural co-operation. It consists of 47 member states with some 800 million citizens. There is also a European Court of Human Rights (ECHR) known as the most thriving organ among the international human rights institutions, whereas the European Human

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¹ The Convention is formally known as the Convention for the Protection of Human Rights and Fundamental Freedoms. The Convention was drafted in 1949 and it came into force in 1953.

Rights Convention is known as the most successful arrangement of the European Council. Moreover, the Convention has articulated institutional frameworks for protecting and promoting human rights mechanisms, and particularly to define individual rights.

In Europe, the concept of individual rights has gone through a long process of evolution. The idea of individual rights in Europe is linked with the collapse of feudalism in the European society. The philosophers/thinkers contributed to develop the idea in Europe that the protection and promotion of individual rights are prerequisites for the development and progress of every human being. Historical experiences of war and conflict also give rise to an understanding in the European society that violation of individuals' rights creates a permanent threat to everyone. The motto of French Revolution, *Liberty, Equality and Fraternity*, as well reminds the idea that every human being should be considered equally in the society and everyone has equal rights to get equal benefits and protection from the State. Besides, the catastrophic experiences of the Second World War reinvigorate a new urgency in Europe to install a mechanism that can eventually protect individual rights. This is because that the experiences of the War impart the idea that without furthering and securing individual rights, Europe might have to experience another cataclysmic danger in future.

The developments and experiences aforesaid give rise to the Universal Declaration of Human Rights (UDHR) in 1948, and widen the philosophy of human rights. However, the document with a lack of implementation mechanism attracts little attention of the Europeans. Therefore, the European Convention on Human Rights that elaborates and institutionalises the issues of individual rights and its protection mechanisms is established. Since the formation of the European Convention, it has been playing a significant role to protect individual rights. The institutional frameworks of the Council of Europe have taken substantive legal and institutional mechanisms in this regard. The developments of globalisation have extended new understandings about individual rights. The traditional understanding about individual rights as a State responsibility has been shifted towards supra-national as well as a global responsibility. In the era of globalisation, individuals are not only associated with the State, but with global persona also. The issues of protecting individual rights are facing challenges with the emerging realities of globalisation. Therefore, the objectives of this paper are to evaluate the evolution of individual rights in Europe, and to examine how far the European Convention on Human Rights is addressing the emerging challenges of globalisation.

The paper is divided into six sections including introduction. Section 2 focuses on the evolution of the concept of individual rights in the European polity and how the concept accomplishes the European Convention on Human Rights. Section 3 analyses the institutional framework developed under the convention for securing the rights of individual and the apparatus how an

individual can battle for ensuring his/her own rights within the system. Section 4 illustrates how the individual rights are affected by the process of globalisation in the European context. Section 5 makes an assessment of the framework evolved within the institutional structure of the European Convention on Human Rights to protect the rights of an individual in the age of globalisation. The conclusion of the paper is drawn in section 6.

2. Developing the Concept of Individual Rights in Europe and the European Convention on Human Rights

In Europe, the contemporary concept of individual rights is defined as follows: “prima facie everyone has an equal legitimate claim to those tangible and intangible goods and benefits most essential for human well-being”². Though the ECHR is focused on the adage, Europe takes sufficient time to deem every human being equal. While feudalism considers rights as “obligations attached to tiers of a fixed social hierarchy (e.g., natural and God-given)”³, liberalism gives emphasis on new theories of social order and authority. The theory of “social contract” given by John Locke⁴ reveals that everyone has natural rights to defend his “Life, Health, Liberty or Possessions”. Therefore, the concept of individual rights is influenced by such philosophical thoughts and also by many political developments in Europe. For example, the Habeas Corpus Act of 1679 recognises liberty for the individuals, and their rights to secure them from the State oppression without any legal process. Similarly, the English Bill of Rights of 1689 titled as “An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown” provides individual freedom from arbitrary administration.

Philosophical thoughts have crucial role to value and develop individual rights in Europe. Thoughts of Thomas Paine persuade the ordinary Americans to realise the rights of every human being and to revolt against the British King. His philosophical thoughts are reflected in the American Declaration of Independence, and influenced the US Constitution and the US Bill of Rights to incorporate rights to freedom of religion, assembly, speech and the press; rights to bear arms, to jury trial, to privacy, to public trial, and to security of property. Similarly, philosophical thoughts of Jean Jacques Rousseau and Voltaire played an important role to establish individual rights in Europe. Thoughts of Rousseau immensely influence the French Declaration of Rights of Man and Citizen. The Declaration acknowledges the rights of every human being from the State; and these rights are liberty, property, security, and resistance of oppression. The Declaration also admits rights to freedom of thought, conscience and religion,

² Steven Greer (ed.), *The European Convention on Human Rights: Achievements, Problems and Prospects*, New York: Cambridge University Press, 2006, p. 2.

³*Ibid.*

⁴ The pioneer of the idea of liberalism in Europe.

fair trial according to the rule of law, freedom from arbitrary arrest and detention, and democratic participation.

One of the significant developments in the area of individual rights in Europe is developing the idea of individualism. The pioneers of the concept of individualism disclose that individual is of primary importance in the struggle for liberation. Immanuel Kant's *Perpetual Peace* (1795) and *Metaphysics of Morals* (1797), and John Stuart Mill's *On Liberty* (1859) and *Considerations on Representative Government* (1861) develop the idea of individualism in Europe, and lead Europe to recognise the rights of individuals in the state mechanism. Moreover, Woodrow Wilson's *The Fourteen Point Address* (1918) and *The Covenant of the League of Nations* (1919) also influenced European polity to incorporate individual rights as the core of human rights.

The experience of the First and the Second World War also impart a new understating about human rights in the European polity. How violation of human rights can affect the life of every human being comes immediately as a vivid example among the Europeans. Thereafter, the Europeans consider that ensuring security and maturity of every human being can address the development of whole society. Consequently, the leaders of the European polity moot a necessity for promoting the concept of human rights. In the understanding, every individual is considered as equal in respect to human rights. And, human rights are observed as individuals' demands from the State. However, the *Universal Declaration of Human Rights (UDHR)* by the United Nations (UN) in 1948 made a new understanding in the international arena about the progress and development of human rights. Though it is said that the UDHR is developed from the Western values, the Europeans find it insufficient for them. In this context, the Council of Europe finds it necessary forming a new Convention for Europe to describe individual rights from the European perspectives.

The Council of Europe was formed in 1948, and the Convention was drafted in 1949. The main objectives of the Council and the Convention were developed in reaction to the horrific experiences of the First and the Second World War as an attempt to avert any future spectre of totalitarianism in the Western Europe. The Convention came into force in 1953. The rights contained in the Convention are civil and political ones. There is a separate *Social and Economic Charter of 1961*.⁵ Since 1953, the Convention experiences phenomenal growth in its stature at least in three respects.⁶ Firstly, the substantive rights are included by a number of Protocols; at present, there are fourteen Protocols with the European

⁵ The European Social Charter is a Council of Europe Treaty, which was adopted in 1961 and revised in 1996. The Revised Charter came into force in 1999 and is gradually replacing the initial 1961 Treaty. The Charter sets out rights and freedoms, and establishes a supervisory mechanism guaranteeing their respect by the States' parties.

⁶ The European Convention on Human Rights, *The UK Law Online*, available at <http://www.leeds.ac.uk/law/hamlyn/echr.htm> accessed on 3 August 2009.

Convention on Human Rights. Secondly, the number of States adhering to the Convention has grown, especially in recent years with the attainment of many Eastern European States.⁷ Thirdly, the amount of business has increased enormously because of gradual increase in the recognition and reliance upon the exceptional rights of individual petition - the fact that not just governments but individual persons can also bring complaints.

The substantive as well as procedural rights are recognised in the Convention. However, the Conventional bodies have been more efficient when dealing with procedure, and it is certainly true that the matters of substantive decisions are often avoided with reference to the concept of “margin of appreciation”⁸ by which the Convention adjudicators defer to the greater knowledge and experience of domestic decision-makers arising from “their direct and continuous contact with the vital forces of their countries”⁹. The national authorities expect to be the prime protectors and overseers of human rights, and it has been emphasised by the Court of Human Rights.

The potential for invocation of the Convention is incredible, especially as the adjudicative agencies adopt a teleological and dynamic approach in order to realise the fundamental objectives and purposes of the Convention in a changing world such as the protection of individual human rights and the promotion of pluralistic democracy. On the other hand, the Court of Human Rights demands that national laws are in line with, and proportionate to, the objectives, and it has adopted an autonomous jurisprudence to the interpretation of the Convention which does not simply borrow national viewpoints.

Since the Convention came into force, fourteen Protocols have been adopted. Protocol 1, Protocol 4, Protocol 6, Protocol 7, Protocol 12 and Protocol 13 add further rights and liberties to those guaranteed by the Convention. Protocol 2 provides the Court a power to give advisory opinions, a little-used function that is now governed by Article 47 to Article 49 of the Convention. Protocol 9 enables individuals to seek referral of their case to the Court. Protocol 11 transforms the supervisory system, creating a single, full-time Court to which individuals has direct recourse. Further amendments to the system are contained in Protocol 14. The other Protocols concern the organisation of and procedure before the Convention institutions, and are of no practical importance today.

⁷ The number increased from 23 in 1989 to 40 in 1997. Currently, it is 47.

⁸ John A. E. Vervaele, “Special Procedural Measures and the Protection of Human Rights”, *Utrecht Law Review*, Vol. 5, Issue 2, 2009.

⁹ Jeroen Schokkenbroek, “Judicial Review by the European Court of Human Rights: Constitutionalism at European Level”, in Rob Bakker, A. W. Heringa and F. A. M. Stroink (eds.), *Judicial Control: Comparative Essays on Judicial Review*, The Netherlands: Maklu Uitgevers Antwerpen, 1995, p. 162.

3. Institutional Frameworks of the European Convention

Since the adoption of the Convention in 1953, the Council of Europe has incorporated a series of International Treaties through which the organisation has taken initiatives to protect human rights of all individuals in Europe. The institutional frameworks make an in-depth evaluation of any issues which threaten individual rights in Europe. The number of rights is increasing day by day by new Conventions and Protocols. For example, the 1953 European Convention on Human Rights is for protecting civil and political rights; the 1961 European Charter is to protect economic and social rights; the 1996 Framework Convention is to protect people belonging to national minorities, including their cultural and linguistic rights etc. Similarly, additional Protocols to the Conventions increase the number of rights. Furthermore, the adoption of Conventions such as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in 1981 or the Convention on Human Rights and Biomedicine in 1996 demonstrates the Council of Europe's commitment to adapt the instruments of protection to meet changing circumstances.

Under the initial arrangements, three institutions were responsible for enforcing the obligations undertaken by the contracting States: the European Commission of Human Rights, the European Court of Human Rights, and the Committee of Ministers of the Council of Europe. Since 1 November 1998, when Protocol 11 came into force, the first two of the institutions have been replaced by a single full-time European Court of Human Rights (ECHR), and individual applicants have been entitled to submit their cases directly to the Court. The European Convention on Human Rights has therefore become a dynamic and powerful instrument in regards to new challenges in Europe. Since its establishment, the Court monitors 'respecting human rights' of some 800 million Europeans. The Court already is thus recognised as a champion for promoting and protecting human rights.

In the light of Madrid Agreement i.e. Protocol 14, the Court is composed of a number of judges equal to that of the contracting States. The judges are elected by the parliamentary assembly of the Council of Europe, which votes on a short list of three candidates put forward by the States. The judges sit in their individual capacity and do not represent any State. The Resolution on the Judicial Ethics adopted by the Court in 2008 made it compulsory for the judges that they would not engage in any activity incompatible with their independence and impartiality.

Any individual can complain in the Court; he/she may be national of the States bound by the Convention or not. But the violation of rights must be within the States of the European Council. The individual can be a private individual or a legal entity such as a company or an association. The application must relate to one of the rights set out in the European Convention on Human Rights. However,

after getting application, the Court first examines application whether it is admissible or not. If complains of the application are admissible, the Court encourages the parties to reach a friendly settlement. If no settlement is reached, the Court considers the application ‘on the merits’ that is, it determines whether or not there has been a violation of the Convention. It needs to be clarified that the Court is not empowered to overrule national decisions or annul national laws. Also, the Court is not responsible for the execution of the judgements; it goes to the Committee of Ministers in the Council of Europe for the implementation.

The ECHR has a legal aid system. If applicant applies for legal aid and the Legal Service Commission of the ECHR considers that the applicant is eligible for getting legal aid, the lawyers of the Court give the applicant legal aid. Beyond that an individual can take help from the lawyers, in a condition that if the applicant wins, the lawyers will be paid. In addition, there are a number of human rights non-governmental organisations (NGOs) with substantial experience and expertise in bringing the applications to light and then advising them.¹⁰ Therefore, practitioners have the opportunity to contact with the NGOs to take advice or assistance on law and procedural issues.

In recent times, increasing number of cases has become a challenge for the ECHR. Previously, the number of applications came to the court was very small. But following the rapid inclusion of states in the Council of Europe from 1990 onwards, the number of applications is increasing massively because of the challenges faced by the citizens of post-communist East-European states to adapt with the emerging global and economic order.¹¹ However, the Court has concentrated on examining complex cases and decided to put together certain applications which raise similar legal questions so that it can be considered jointly. Although the number of judgments delivered each year is not increasing as rapidly as in the past, the Court has examined a large number of applications.

Before delivering a judgment on violations, the Court transmits related document to the Committee of Ministers of the Council of Europe, which then confers it to the country concerned and the department responsible for the execution of judgments to decide how the judgment should be executed and how to prevent similar violations of the Convention in future. The process helps to undertake general measures, especially amendments to legislation, and individual

¹⁰ Two NGOs, Liberty and the AIRE Centre, have particular experience in representing applicants before the European Court.

¹¹ On 1 January 2010, approximately 119,300 applications were pending before a decision body. More than half of these applications had been lodged against one of four countries: Russia, Turkey, Ukraine and Romania. Since the reform of the Convention system on 1 November 1998, there has been a considerable increase in the Court’s caseload. Barely ten years after the reform the Court has delivered its 10,000th judgment. The output is that more than 90 per cent of the Court’s judgments since its creation in 1959 have been delivered between 1998 and 2009.

measures. It could also be mentioned here that the member States do not have any obligation to follow the directions of the ECHR. But generally, the States always show the respect to the judgements of the ECHR. Therefore, a discrepancy on the issue of individual human rights comes to the fore in the age of globalisation.

4. Individual Rights in the Age of Globalisation: A Discourse

The process of globalisation opens up a new understanding of State in terms of its functions and constituent elements. The understanding on State has dual faces. In one face, State claims widening its power. In other face, State sovereignty is questioned by transnational actors. At times, the actors affect State's authority and inflict calling for international law. Therefore, interdependency of States and international law of human rights become more important in the globalisation process. Now a basic question is: whether States are obliged to follow international law of human rights? Therefore, tension of globalisation on States' effectiveness of human rights is heightened between law and fact. Consequently, protection of individual rights is influenced by State mechanism and globalisation process.

Not just credentials of individual human rights in a wave of globalisation are now being complicated, but socio-economic rights and development opportunities for the most vulnerable part of the world population are also becoming costly. Therefore, various confusions are on rise. How individual human rights (such as rights to food) would be understood? How would they be maintained? These confusions result in intensified tensions among diverse ethnic, racial and social groups.

Development of individual rights is focused on two basic points: active, free and meaningful participation in the development process; and reasonable sharing of fundamental opportunities. Globalisation induces increased human mobility and interaction, creation of a single or integrated market, and development of common norms and values. Accordingly, globalisation process is categorised in two ways – globalisation-from-below and globalisation-from-above. The former is directed by people based on equality, and motivated by cooperation. The latter is motivated by competition, and directed by capital or markets and corporate media based on inequality. The most obvious tension between the two is to maintain mutual individual choice and social choice. Retaining individual rights is also a challenge, when society differs with individuals.¹²

Individual human rights and economic globalisation are not disjointed phenomena. Globalisation of economy is characterised as a locomotive for

¹² Laurence E. Rothenberg, "The Three Tensions of Globalisation", The American Forum for Global Education, Occasional Paper No. 176, 2002-2003, available at <http://www.globaled.org/issues/176.pdf> accessed on 13 June 2010.

productive opportunity. By contrast, it causes impoverishment, social disparity, and violations of individual and group rights like minority rights or rights of marginalised groups.¹³ Besides, the imperative to economic liberalisation produces a wave of privatisation, cutting jobs, slashing health, education and food subsidies, affecting the poor in society. In many cases, liberalisation process is accompanied by greater inequality, income disparity and absolute poverty.¹⁴ Therefore, universal understanding such as the “European Convention on Human Rights”¹⁵ that may serve all the concerns aforesaid becomes vital to the issues of individual human rights in the age of globalisation.¹⁶

The Convention includes a wide range of socio-economic, cultural, and citizenship rights. The most important aspects of the Convention are that it guarantees rights to life; prohibitions of torture and of slavery; rights to liberty and security; rights to a fair trial; respect for private and family life; freedom of religion, expression and press; freedom of association and assembly; effective national remedies; non-discrimination; rights to education; and free and secret elections of legislatures.¹⁷ Therefore, the European Convention has been a master piece for protecting human rights, in particular all individual human rights.

5. The European Convention Linked to Individual Rights in the Age of Globalisation

The notion of human rights usually comes to the fore as a perception about individual’s self- esteem. Each society has common strings that advocate all people’s manifestations in its remit. The strings are based on human rights. Therefore, the idea of human rights linked to the rule of the administration of the society or the decision of juries on behalf of individuals’ rights. The rules of the administration is developed basing on the strings of its social remit. At the same time, the juries have to use self judgement to define human rights. The European Convention on Human Rights recognises such authority for the juries to use self judgement with regard to human rights. The individual has the opportunity to explain its social strings in front of the ECHR. The judges want to secure the

¹³ Ashish Bansal, “Globalisation and Human Rights, Help or Hindrance”, available at <http://gedi.objectis.net/eventos-1/ilsabrazil2008/artigos/dheh/bansal.pdf> accessed on 2 June 2010.

¹⁴ S. R. Nayak, “Globalisation, Global recession and their impact on human rights”, available at <http://www.karnatakabank.com/ktk/Articles.jsp> accessed on 2 June 2010.

¹⁵ The Convention is largely confined to civil and political rights.

¹⁶ Asbjørn Eide, “Making Human Rights Universal: Achievements and Prospects”, in Hugo Stokke and Arne Tostensen (eds.), *Human Rights in Development*, The Netherlands: Kluwer Law International, 2001, p. 35.

¹⁷ Luzius Wildhaber, “European Union, European Convention on Human Rights and Human Rights protection in Europe”, presented at the *International Symposium on EU-Integration and Guarantee of Human Rights*, Kyoto: Ritsumeikan University, 18 April 2008.

self-esteem of the individual by considering social remit. In the age of globalisation, the convention ensures such opportunity for the individuals, and the juries bear the responsibility to define the rights basing on individuals' social remit.

Valuing individual's self-esteem, giving much emphasis on self-ruled administration and public emancipations are jointly constructing the notion of human rights. These, in fact, recognise the rule of law or the belief in legitimacy. Governed by efficient rules and regulations, a society can be a ground through which both people's manifestations and public emancipations could be developed. These structures are based on individual human rights. Therefore, the belief of legitimacy becomes an end result. In fact, with no valuation of individual self-esteem and the equality concept, one can not have belief in legitimacy. With an opposite assumption, one undoubtedly would be committed to a rule of law that has sovereignty. However, the idea of individual human rights permits categorisation of some features that may otherwise be problematic without the notion.

First, the fact of globalisation challenges the territorial concept of the state. A state may be affected by the acts beyond its border. Hence, what would be the area of jurisdiction and how does the ECHR consider the individuals beyond European border? In fact, human rights are both-way phenomena that address all kinds of individual rights and attempt to defend the leading characters of state territory. In this respect, ECHR considers the individuals' complains which take place in the European territory. However, the concept of human rights must combat against religious fundamentalism. It should also oppose the ideology of racism.

Second, the concept of human rights traditionally was not much comprehensive as it did not include individuals' demands for their security. But the incidence of 9/11 has created a discrepancy in this regard. The ECHR can consider the security of an individual and an individual has the right to fight for his/her security. The state is obliged to ensure the security of the individual. Here, the flow of globalisation makes a dilemma for state to ensure the right of an individual and tackling the threat of terrorism. The ECHR is an important destination, where an individual can argue for his security and the state can dispute with the juries considering the security concerns. The European Convention on Human Rights has crafted the structure for a continuous debate for framing effective policy options in this regard.

Third, when the process of globalisation deals with global polity¹⁸, the notion of human rights is further connected with democracy and social justice. In the context of developing world, economic progress is as an important ingredient of

¹⁸ The global polity is defined as the totality of global political structures and processes including non-state actors.

human rights. In such a scenario, if the human rights issues only address the materialistic betterment of individual, it does not fulfil the core ideas of human rights. The opportunity of enhancing creativity and self respect must be included among the human rights goals. Hence, European Convention on Human Rights is not only limited to the material betterment of the individual, it also includes the complete prosperity of every individual. Accordingly, the individual should get opportunity to acquire the universal excellences in his lifetime. The concept of democracy and social justice is linked with self-esteem of every individual. In the process of globalisation, the individual should not face any difficulty to acquire such prerogatives.

Fourth, in the age of globalisation, nation states are facing two fold challenges. On the one hand, the states need to enhance security by increasing military strength and surveillance capability to face transnational security threats. On the other hand, the process of globalisation induces unrestricted flow of human resource migration. The prevention of transfer of human resources can be an obstacle in the ways of individuals' prosperity thereby opposing the process of globalisation. In the context of European polity, the issue is emerging as a wider challenge. The idea of globalisation stems from the coherent choice of individuals.¹⁹ The ECHR tries to make a rational choice in such issues. It is a challenge for the European polity to secure the individual from dilemma of security and freedom. The dynamics of globalisation often makes such contradictions more extensive and tricky.

Fifth, the existing social orders and constitutional verdicts also cause challenges for individuals' rights, when the individual migrate from one society to another.²⁰ In the European context, such challenges are a global phenomenon. The European Convention on Human Rights allows non-Europeans to get the protection of the convention for the occurrences within the European territory.²¹

The aforesaid discussion on the issues of human rights or particularly individual rights can be furthered with the European Convention on Human Rights. The Convention is the first one that incorporates all rights of individuals within a permissible entity. It widens essential instruments to develop and further human rights issues. It also develops an ECHR that fixes some indispensable lawful management to address the existing human rights issues. Additionally, a Court of European Human Rights is formed to provide member countries with satisfactory directions and mechanisms to warrant individual rights. In the Court,

¹⁹ Conor Gearty, "Human rights in the age of globalization: the challenge of growing up", available at http://www.lse.ac.uk/collections/humanRights/articlesAndTranscripts/Human_rights_age_globalisation.pdf accessed on 16 May 2010, p. 5.

²⁰ *Ibid.*, p. 6.

²¹ The member countries of the Council of Europe would be considered as geographical territory here.

individuals have the opportunity to raise their respective issues, whereas the Court with its institutional mechanisms and capacities addresses the issues in a workable manner and makes an effort to ensure the individuals' rights. However, there are some complains in the Court, reflecting the challenges of individuals in the wave of globalisation.

The European Convention on Human Rights faces various challenges. While some scholars are concerned about the desires to be addressed at the State level to look up the conformities, others demand supplementary upgrading of the Convention's ongoing legal procedures. The third group of academia recommends innovations of brand new institutional mechanism. These entail that some definite widespread basic principles need to be maintained as well as recognised so that any aberration from the standards identified could be ruled by only what is austere essential to avert challenges to the existence of the other.

In recent times, it is important to ascertain whether the European Convention on Human Rights is "anything more substantial than mere bureaucratic institutionalisation".²² An understandable and most perceptible response is: whatsoever the Convention anticipated to attain since its founding time, its contemporary crucial intention is to facilitate individuals to take governments of the affiliated nations in front of the international court for their critical human rights abuses. The majority who take such inspection will as well affix that the Convention has set the gathering free more efficiently; moreover, it has performed very efficiently than any analogous transnational procedure in the world.

Conversely, the designers of the Convention approve that the principal modus operandi of the Convention ought to be objections made by affiliated nations in opposition to each other, but not by individuals in opposition to their national governments. Whereas some demand rights of individual appeal to become obligatory from the beginning, it was not the case up to the late 1990s, though it had by then been willingly acknowledged by the all signatory nations. Another difficulty is that the procedure of individual applications is incompetent to convey individual justice. Having the existing rate of application, there is not the farthest outlook that applicants with lawful objections concerning Conventional abuses would obtain results in their supports. This is because that individual impartiality clinches a significant number of rights, representing an inclusive scenario of individual security than those experienced in the European Convention.

6. Concluding Remarks

From the above discussion, it is clear that in the age of globalisation there is nonetheless little pragmatic outlook in that the Convention finds it more or less

²² Steven Greer, *op. cit.*, pp. 316-326.

impractical to deal with legal action “on the rights it already has”.²³ This is obvious that regulations and its applications in most of the affiliated nations of the European Convention have been altered owing to thriving legal action by individuals to the ECHR. However, it is not clear whether individual applications offer any efficient ways of managing structural or systemic compliance. Even individual applications do not always receive attention within the conventional framework. In the modern European organisational framework, an individual in many ways has to abide by the national laws in the context of security and migration policy. One fussy complexity to assess the efficiency of the individuals’ instruments has been of determining which nations are mainly or minimally Convention acquiescent, even with minimal societal systematic dependability. While the ECHR focuses on individuals’ liberty, the states are concerned about security aspects. Hence, it is a challenge for the European Convention on Human Rights to draw a line between the individual liberty and security concerns. In this respect, the ECHR considers the realities of globalisation and is determined to secure the rights of individual without neglecting security aspects. However, it is an emerging challenge for the ECHR to secure an individuals’ right within proper assessment of security threats. The European Convention on Human Rights is adding new protocols to address such challenges generated from the process of globalisation.

²³ *Ibid.*, p. 318.